

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KALIN EXPRESS INC.,

Plaintiff,

v.

PACCAR INC,

Defendant.

Case No.: 20-CV-_____

Dane County Case No. 20-CV-2276

NOTICE OF REMOVAL

TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

The Notice of Removal of the defendant, PACCAR Inc ("PACCAR"), and respectfully shows as follows:

1. On November 2, 2020, an action was commenced against PACCAR Inc in the Circuit Court for the State of Wisconsin, in and for the County of Dane, entitled ***Kalin Express, Inc. v. PACCAR Inc***, Case No. 20-CV-2276, by the filing of the Summons and Complaint with the Clerk of Courts for Dane County, a copy of which is attached as **Exhibit A**.

2. Upon information and belief, the Summons and Complaint was served upon PACCAR on or about November 17, 2020. Responsive pleadings were served by efilng on December 3, 2020, a copy of which is attached as **Exhibit B**. No further proceedings have been held in this matter.

3. This action is a civil action over which this court has original jurisdiction under the provisions of 28 U.S.C. § 1441. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because the dispute is between citizens of different states and the matter in controversy

allegedly exceeds the sum or value of seventy-five thousand dollars (\$75,000), exclusive of interests and costs, as more fully appears from the plaintiff's Complaint. Consequently, sufficient grounds exist for removal of the action to this court from the Circuit Court of Dane County.

4. Pursuant to 28 U.S.C. § 1446(b), removal of this action is timely as it is filed within thirty days of service upon the defendant, PACCAR.

5. Venue properly lies in the Western District of Wisconsin since plaintiff's claims arise out of a motor vehicle purchase contract that was allegedly entered in Dane County, Wisconsin, and the plaintiffs initially commenced this action in the Circuit Court for Dane County.

THIS COURT HAS DIVERSITY JURISDICTION OVER THIS ACTION

Diversity of Citizenship

6. Upon information and belief, the plaintiff, Kalin Express, Inc. was at the time this action was commenced, and still is, a corporation organized under the laws of the State of Wisconsin, with a principal place of business at 397 Lilly Drive, Oak Creek, WI 53154.

7. The defendant, PACCAR Inc, was at the time this action was commenced, and still is, incorporated under the laws of the State of Delaware, with a principal place of business in Bellevue, Washington.

Amount in Controversy

8. Plaintiff's Complaint alleges that it entered into a contract for the purchase and sale of a truck for the purchase price of \$177,820.50. The allegations in the Complaint seek a refund of the above purchase amount. The Complaint contains multiple ad damnum clauses, The ad damnum clause for Count II indicates:

WHEREFORE, Plaintiff demands judgment against Defendant:

- A. To refund to Plaintiff the full purchase price, plus any sales tax, finance charges, amount paid by the Plaintiff at the point of sale and collateral costs;

B. Pursuant to W.S.A. 218.0171(7), Plaintiff is entitled to the amount of any pecuniary loss, together with costs, disbursements and actual reasonable attorneys' fees;

C. For prejudgment interest; and

D. For such other equitable relief that this Court deems appropriate.

9. As reflected above, plaintiff's claim seeks recovery of the \$177,820.50 purchase price of the vehicle, plus other costs, as well as attorney's fees and costs.

10. While PACCAR denies that it is liable to the plaintiff for any of the alleged damages, plaintiff is seeking damages in excess of the jurisdictional limit of \$75,000.00.

NOTICE OF FILING

11. In accordance with 28 U.S.C. § 1446(d), written notice of the filing of this removal notice will be given to the plaintiff's counsel and filed with the Clerk of Courts for Dane County, following the filing of this notice.

WHEREFORE, defendant, PACCAR Inc, requests that the above action now pending against it in the Circuit Court for the State of Wisconsin, in and for Dane County, be removed to the United States District Court for the Western District of Wisconsin.

Dated this 9th day of December, 2020.

s/Jeffrey S. Fertl

Jeffrey S. Fertl

State Bar No. 1014806

Attorneys for Defendant, PACCAR Inc

HINSHAW & CULBERTSON LLP

100 E. Wisconsin Avenue, Suite 2600

Milwaukee, WI 53202

Direct Telephone: (414) 225-4812

E-mail jfertl@hinshawlaw.com